

APPENDIX A - PLEA AGREEMENT

UNITED STATES OF AMERICA,) No. CR 05-316-DSF
)
Plaintiff,) FACTUAL BASIS FOR GUILTY PLEA
) OF RICHARD B. LEONARD
v.)
)
JOHN S. LIPTON,)
)
MARLYN D. HINDERS,)
)
DAVID L. JOHNSON,)
)
RICHARD B. LEONARD,)
)
WILLIAM H. NURICK,)
)
VICTOR H. PRESTON,)
)
DENISE TAYLOR-FRASER,)
)
WILLIAM TAYLOR-FRASER,)
)
TERESA R. VOGT,)
)
Defendants.)

INTRODUCTION

At all times relevant to this indictment:

A. THE ENTITIES INVOLVED

1. The Internal Revenue Service ("IRS") was a constituent agency of the United States Department of Treasury responsible for administering and enforcing the tax laws of the United States, and collecting the taxes owed to the Treasury of the United States by its citizens.

2. Beginning in July 1994, the Genesis Fund was an unregulated offshore private investment fund that engaged in foreign currency ("forex") trading through an Asian foreign currency dealer. The Genesis Fund began as an informal investment group in July 1994 that called itself "The Human Element." In October 1995, the name was changed to the Genesis Fund ("the Genesis Fund").

3. International Bright Investment, Ltd., ("IBI") was an entity based in Hong Kong and Macau, both of which were Special

1 Administrative Regions of China in the South China Sea.
2 Representatives of the Genesis Fund, including the defendants,
3 represented that IBI was the foreign currency dealer for the
4 Genesis Fund. The principal of IBI, M.L., was a Hong Kong
5 national and used J.Y., a resident of the Central District of
6 California, to act as an intermediary between it and the Genesis
7 Fund.

8 4. Currency Trading Management Group ("CTMG") was the name
9 of an entity portrayed by defendants to investors as an offshore
10 company in charge of trading decisions for the Genesis Fund,
11 which trades purportedly were executed by IBI.

12 B. THE INDIVIDUALS INVOLVED

13 5. Defendant RICHARD B. LEONARD ("LEONARD") was an early
14 investor, a promoter, and later a manager of the Genesis Fund.
15 Defendant LEONARD resided in Littleton, Colorado, until he
16 relocated to Costa Rica in June 2000.

17 6. Co-conspirator Edward J. Lashlee ("Lashlee") owned and
18 operated Professional Trust Services ("PTS"), which promoted and
19 sold trusts as so-called "asset protection" vehicles to clients,
20 including defendants RICHARD B. LEONARD, JOHN S. LIPTON, MARLYN
21 D. HINDERS, DAVID L. JOHNSON, WILLIAM H. NURICK, VICTOR H.
22 PRESTON, and TERESA R. VOGT (referred to collectively herein as
23 "the defendants"). Lashlee created and maintained such trusts
24 and related bank accounts for his clients in exchange for fees.
25 Lashlee operated PTS primarily from his residence in San Juan
26 Capistrano, California, using a mailing address at 219 Broadway,
27 #400, Laguna Beach, California. Lashlee was also a manager and
28 administrator of the Genesis Fund until September 1999.

1 7. Defendant JOHN S. LIPTON ("LIPTON") was a founding
2 member and the principal manager of the Genesis Fund. Defendant
3 LIPTON resided in Mission Viejo and Laguna Hills, California,
4 until March 1998 when he relocated to Costa Rica.

5 8. Defendant MARLYN "MILT" D. HINDERS ("HINDERS") was a
6 promoter and a manager of the Genesis Fund. From July 1994 until
7 May 2004, defendant HINDERS resided in Aurora and Parker,
8 Colorado, at which time he moved to Mexico.

9 9. Defendant DAVID L. JOHNSON ("JOHNSON") was an early
10 investor, and a promoter and manager of the Genesis Fund. From
11 July 1994 until the present, defendant JOHNSON has resided in
12 West Covina and Covina, California.

13 10. Defendant WILLIAM H. NURICK ("NURICK") was a founding
14 member of the Genesis Fund and a Genesis Fund manager. From July
15 1994 to 2001, defendant NURICK resided in Irvine and Shaver Lake,
16 California. From 2001 until April 2003, defendant NURICK resided
17 in Costa Rica. Thereafter, defendant NURICK has resided in
18 Camarillo, California.

19 11. Defendant VICTOR H. PRESTON ("PRESTON") was a founding
20 member and a manager of the Genesis Fund. From July 1994 to June
21 2000, defendant PRESTON resided in Huntington Beach and Laguna
22 Hills, California. Defendant PRESTON relocated to Costa Rica in
23 June 2000.

24 12. Defendant DENISE TAYLOR-FRASER was a Genesis Fund
25 investor and a manager (in summer 2000). Defendant DENISE
26 TAYLOR-FRASER is married to defendant WILLIAM TAYLOR-FRASER, and
27 has resided with him in Riverside, California, since summer 2000.

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1 13. Defendant WILLIAM TAYLOR-FRASER was a Genesis Fund
2 investor and became a manager in summer 2000.

3 14. Defendant TERESA R. VOGT ("VOGT") was a primary
4 administrator and later a manager of the Genesis Fund. From July
5 1994 to present, defendant VOGT has resided in Anaheim,
6 California. From May 1995 to September 1999, defendant VOGT
7 conducted the administrative operations of the Genesis Fund from
8 her home in Anaheim, California.

9 15. Co-conspirator Michael Putnam ("Putnam") was a founding
10 member and promoter of the Genesis Fund until July 2002.

11 16. A co-conspirator lawyer from Costa Rica (the "Costa
12 Rican lawyer") provided offshore incorporation and private
13 banking services to some managers, promoters, and investors of
14 the Genesis Fund, including defendants LEONARD, LIPTON, HINDERS,
15 JOHNSON, NURICK, and PRESTON, beginning in January 1999 until
16 June 2002. The Costa Rican lawyer also performed administrative
17 services for the Genesis Fund from late 1999 through 2001.

18 C. NATURE OF THE CONSPIRACY TO DEFRAUD THE IRS AND TO EVADE THE
19 ASSESSMENT AND PAYMENT OF INDIVIDUAL INCOME TAXES TO THE IRS

20 17. From July 1994 to May 2005, within the Central District
21 of California and elsewhere, defendants, including defendant
22 LEONARD, and Lashlee, the Costa Rican lawyer and others knowingly
23 combined, conspired, confederated, and agreed to defraud the
24 United States by deceitful and dishonest means for the purpose of
25 impeding, impairing, obstructing, and defeating the lawful
26 Government functions of the IRS in the ascertainment,
27 computation, assessment, and collection of the revenue: namely,
28 income taxes owed on income obtained by defendants from the
Genesis Fund, including defendant LEONARD, and to willfully

1 attempt to evade the assessment and payment of individual income
2 taxes of defendant LEONARD to the United States Treasury.

3 18. Specifically, co-conspirator Lashlee would open bank
4 accounts for defendant LEONARD and others, including some Genesis
5 Fund investors, in the names of trusts into which distributions
6 from the Genesis Fund were deposited.

7 19. Aided and abetted by co-conspirator Lashlee, defendants
8 and others used various bank accounts held in the names of trusts
9 or other entities to deposit their Genesis Fund income.

10 Specifically defendant LEONARD used an account at Paine Webber
11 UBS in the name of Ortega Management Trust to deposit his Genesis
12 Fund income.

13 20. In early 1999, the defendants, including defendant
14 LIPTON, and others, agreed to create "disclosed" Genesis Fund
15 accounts in order to report to the IRS some, but not all, Genesis
16 Fund distributions. The "undisclosed" accounts had been
17 established before 1999 and were not to be reported to the IRS.

18 21. In 1999, defendant LIPTON, acting for himself,
19 defendant LEONARD and others, caused the Costa Rican lawyer to
20 create Costa Rican corporations and related bank accounts and
21 obtain credit cards supported by those accounts for the purpose
22 of receiving Genesis Fund distributions. These Costa Rican
23 corporations and related bank accounts were established for the
24 purpose of receiving Genesis Fund income in order to evade
25 reporting income to the IRS. The name of the corporation
26 defendant LEONARD used for this purpose was Abetos Del Bosque
27 Lluvioso S.A. at Banco Elca.

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1 22. In addition, defendant LEONARD and others recommended
2 to some Genesis Fund investors that they use the services of the
3 same Costa Rican lawyer to create Costa Rican corporations and
4 bank accounts in order to receive distributions from the Genesis
5 Fund.

6 23. After March 2000, defendant LEONARD learned from LIPTON
7 and the Costa Rican attorney that LIPTON and VOGT had transferred
8 the records of Genesis Fund to Costa Rica.

9 24. The defendants, including defendant LEONARD, did not
10 fully report their Genesis Fund income on their personal returns,
11 and no tax returns were filed on behalf of the trusts.

12 25. Defendant LIPTON insisted upon the use of encrypted e-
13 mail communications between the defendants regarding the Genesis
14 Fund.

15 26. During the calendar years 1999 through 2002, defendant
16 LEONARD received income substantially in excess of the minimum
17 filing requirement amount set by the Internal Revenue Service
18 which he did not report to the Internal Revenue Service, and upon
19 which he owed significant individual income taxes for the years
20 1999 through 2002.

21 D. OVERT/AFFIRMATIVE ACTS

22 27. In furtherance of the conspiracy and to accomplish its
23 objects, and in an attempt to willfully evade the assessment and
24 payment of individual income taxes to the Internal Revenue
25 Service, defendant LEONARD and others committed the following
26 overt and affirmative acts, among others, in the Central District
27 of California and elsewhere, to wit:

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1 a. On January 28, 1999, defendant LEONARD caused
2 International Centrix check #5355 in the amount of \$10,000 to be
3 deposited into Account #xx xxx40 51 in the name of Ortega
4 Management Trust at Paine Webber (now UBS Paine Webber).

5 b. During September 1999, defendant LIPTON moved the
6 Genesis fund's bank accounts from California to Costa Rica,
7 hiring the co-conspirator Costa Rican attorney and his law firm
8 to handle Genesis fund investor funds.

9 c. During 2000, defendant LEONARD utilized bank accounts in
10 the name of Abetos Del Bosque Lluvioso S.A., specifically the use
11 of credit cards issued on the accounts.

12 d. I acknowledge that additional overt acts in furtherance
13 of the conspiracy were undertaken by my co-conspirators from July
14 1994 through March 2005, and specifically between March 30, 2000
15 and March 30, 2005. I further acknowledge that additional
16 affirmative acts of evasion were undertaken by myself from July
17 1994 through March 2005, and specifically between March 30, 2000
18 and March 30, 2005.

19 I have read Appendix A to the Plea Agreement and carefully
20 discussed every part of this Appendix to the Plea Agreement with
21 my attorney. I agree to the facts as stated above.

22
23 
24 RICHARD B. LEONARD
Defendant

11/26/08
Date

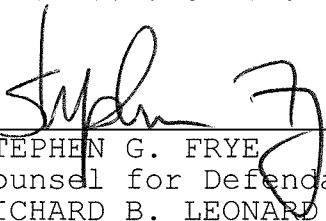
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1 I am RICHARD B. LEONARD's attorney. I have read Appendix A
2 to the Plea Agreement and carefully discussed every part of this
3 Appendix to the Plea agreement with my client. To my knowledge,
4 my client's decision to agree to the facts as stated above is an
5 informed and voluntary one.

6
7 
8 STEPHEN G. FRYE
9 Counsel for Defendant
10 RICHARD B. LEONARD

11-26-08

Date